United Nations S/2005/644

Security Council

Distr.: General
12 October 2005

Original: English

Letter dated 11 October 2005 from the Secretary-General to the President of the Security Council

I have the honour to refer to Security Council resolution 1606 (2005) dated 20 June 2005, by which the Council requested me to initiate negotiations with the Government of Burundi and consultations with all Burundian parties concerned on how to implement the recommendations contained in the report of the assessment mission (see S/2005/158) on the establishment of a mixed Truth Commission and a Special Chamber within the court system of Burundi. I was further requested to report to the Council by 30 September on details of implementation, including costs, structures and time frame.

Since the adoption of Security Council resolution 1606 (2005), a number of important developments have taken place within Burundi, necessitating some delays in the timetable initially envisaged for the start of the negotiations with the Government. On 18 July, the Transitional Government of Burundi had appointed a Commission to negotiate with the United Nations the establishment of the Truth Commission and the Special Chamber. However, with the ongoing electoral process in Burundi, which culminated in the inauguration of President Pierre Nkurunziza on 26 August, negotiations with the United Nations did not take place. With the installation of a new Government in Burundi, the Commission established by the Transitional Government has been disbanded and a new negotiating team has yet to be appointed.

During meetings in early September with the United Nations Operation in Burundi, President Nkurunziza and the newly appointed Minister of Justice, Clotilde Niragira, expressed the Government's support, in principle, for the establishment of the dual-accountability mechanism, with the establishment of a Truth Commission to precede that of a Special Chamber. In this regard, they indicated their intention to nominate a small committee to liaise with the United Nations on the details of the proposed legal framework. In these and similar meetings, however, it was made clear to the Operation that the Government of Burundi would not be ready to engage in substantive negotiations before 30 September.

In preparation for the negotiations with the Government of Burundi on the practical implementation of the legal framework for the Truth Commission and the Special Chamber, a series of consultations among Secretariat Departments and Offices, and between the Secretariat and relevant non-governmental organizations, have taken place at United Nations Headquarters. The discussions focused on coordination among the Departments and Offices concerned and their respective

05-54749 (E) 131005

roles in the process of elaborating the operational modalities of both accountability mechanisms, the interrelationship between the two and their sequencing in time. A legal framework for the dual-accountability mechanism elaborated on the basis of these consultations will be shared with the Government as a basis for negotiation.

In parallel, the Office of the United Nations High Commissioner for Human Rights undertook a preparatory mission to Burundi between 27 September and 1 October to discuss coordination between the Office and the United Nations Operation in Burundi in the establishment of a Truth Commission, the initiation of an information campaign, the design of a national consultative process on both mechanisms, and the organization of a national conference on transitional justice.

In the coming weeks, the United Nations Operation in Burundi will initiate preparatory discussions with members of the Government. These discussions will focus on the nature of the Truth Commission and the Special Chamber proposed in the assessment mission report, and on the negotiation and national consultations processes.

On the basis of the preliminary results of the consultative process, the preparatory discussions with the Government of Burundi and its readiness to start the negotiating process, a United Nations mission will be dispatched to Burundi to negotiate the practical implementation of the legal framework for the dual-accountability mechanism and will report in due course to the Security Council as requested in its resolution 1606 (2005).

(*Signed*) Kofi A. **Annan**